

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Stephen A. FODOR *et al.*

Application No.: 10/694,541

Filed: October 28, 2003

Group Art Unit: 1634

Examiner: Jeanine A. Goldberg

For: Arrays for Detecting Nucleic Acids

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, **Mail Stop Amendment**
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401 Dulany Street
Alexandria, VA 22314

RESPONSE TO COMMUNICATION UNDER 37 C.F.R. § 1.105

This paper is responsive to the Communication under 37 C.F.R. § 1.105 dated July 24, 2007. Applicants submit herewith an Information Disclosure Statement that satisfies the request of the Examiner.

REMARKS

The Communication under 37 C.F.R. § 1.105 dated July 24, 2007 requires that Applicants identify all references cited in the Information Disclosure Statements filed April 20, 2007 and May 4, 2007 specifically related to the claims of the present application. Applicants respectfully note that an Information Disclosure Statement was not filed April 20, 2007 in the present application. Information Disclosure Statements filed May 4, 2007 and June 20, 2007 have not been considered by the Examiner. Accordingly, the references identified in this paper and provided in the enclosed 1449 form are from the Information Disclosure Statements dated May 4, 2007 and June 20, 2007. Applicants note that copies of the references have not been included with this paper because the references were previously provided in the Information Disclosure Statements filed May 4, 2007 and June 20, 2007.

Upon information and/or belief, all references cited herein disclose (1) beads, spheres or particles with a different nucleic acid attached to each bead, sphere or particle. Documents 6-11, 25-27, 29, 33, 36-41, 44, 53, 56-59 and 62-63 additionally appear to disclose beads, spheres or particles with a different nucleic acid attached to each bead, sphere or particle, wherein there are at least 100 different beads, spheres or particles (*i.e.*, at least 100 different nucleic acid species).

Applicants note that several of the cited references appear to be directed to methods of sequencing by hybridization (SBH) and mapping. See, for instance, Documents 27, 32-33 and 37-39 and 41. In the Communication under 37 C.F.R. § 1.105, the Examiner stated that references directed to SBH and mapping to do not appear to be relevant to the pending claims.

The documents listed in the 1449 form include collections of abstracts presented at various meetings. Applicants have identified the following abstracts which appear to meet the disclosure criteria: in Document 33, Drmanac *et al.* (page 53) and Uhlén and Hultman (page 216); in Document 36, Crkvenjakov *et al.* (page 37) and Hainfield (page 39); in Document 47, Callen *et al.* (page 23); and in Document 48, Andreassen *et al.* (#M3, page 9), Fry *et al.* (#M30, page 16), Ito *et al.* (#T10, page 21), Nelson *et al.* (#T41, page 29) and Tong *et al.* (#W30, page 37).

Applicants have included documents related to the Opposition of European patent EP 0834576, also assigned to Affymetrix. EP 0834576 originally contained dependent claims 8, 9 and 10 with limitations to beads. See Documents 25-26, 56-59 and 62 in the attached 1449 form.

Applicants have also included Affymetrix internal documents filed during various proceedings and discussed in the IDS of May 4, 2007, which describe the company's patent portfolio, including patents characterized as covering the bead technology. See Documents 28 and 42.

Document 24 is the transcript of the deposition of Dennis W. Solas, Ph.D., which was taken in patent interference no. 104,359. A discussion regarding the synthesis of oligonucleotides in a VLSIPS photolithographic process on a beaded surface versus a flat surface can be found on pages 79 through 83.

CONCLUSIONS

Applicants respectfully request that the Examiner consider the references cited in the enclosed 1449 form and invite the Examiner to contact the undersigned should there be any new or remaining questions.

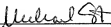
Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-1283. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Dated: August 9, 2007

Respectfully submitted,
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